

HOUSE No. 3515

The Commonwealth of Massachusetts

PRESENTED BY:

Alice K. Wolf

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to improve recycling rates in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Alice K. Wolf	25th Middlesex
Geraldo Alicea	6th Worcester
Tom Sannicandro	7th Middlesex
Stephen Kulik	1st Franklin
Kay Khan	11th Middlesex
Jennifer Benson	37th Middlesex
Mary E. Grant	6th Essex
Robert M. Koczera	11th Bristol
William N. Brownsberger	24th Middlesex
Ellen Story	3rd Hampshire
David P. Linsky	5th Middlesex
James M. Murphy	4th Norfolk
Christopher G. Fallon	33rd Middlesex
Sarah K. Peake	4th Barnstable
Matthew C. Patrick	3rd Barnstable
Katherine Clark	32nd Middlesex
Pam Richardson	6th Middlesex
Peter v. Kocot	1st Hampshire
David B. Sullivan	6th Bristol

Jonathan Hecht	29th Middlesex
Geraldine Creedon	11th Plymouth
Barbara A. L'Italien	18th Essex
Michael F. Rush	10th Suffolk
Stephen L. DiNatale	3rd Worcester
Steven J. D'Amico	4th Bristol
Christine E. Canavan	10th Plymouth
Cory Atkins	14th Middlesex
Elizabeth A. Malia	11th Suffolk
Jay R. Kaufman	15th Middlesex
Martha M. Walz	8th Suffolk
Cleon H. Turner	1st Barnstable
Lori Ehrlich	8th Essex
Cheryl A. Coakley-Rivera	10th Hampden
James B. Eldridge	Middlesex and Worcester
Carl M. Sciortino, Jr.	34th Middlesex
John W. Scibak	2nd Hampshire
John V. Fernandes	10th Worcester
Jennifer M. Callahan	18th Worcester
William Lantigua	16th Essex
Theodore C. Speliotis	13th Essex
Frank I. Smizik	15th Norfolk
Timothy J. Toomey, Jr.	26th Middlesex
Jason Lewis	31st Middlesex
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Paul McMurtry	11th Norfolk
Kevin G. Honan	17th Suffolk
Karen E. Spilka	Second Middlesex and Norfolk
Mark V. Falzone	9th Essex
Sean Garballey	23rd Middlesex
Linda Dean Campbell	15th Essex
Thomas P. Conroy	13th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO IMPROVE RECYCLING RATES IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definitions for “beverage” and “beverage container,” and inserting in place thereof the following definitions:—

“Beverage,” soda water or similar carbonated soft drinks; noncarbonated beverages including mineral water, flavored and unflavored water, vitamin water, and other water beverages, tea, sports drinks, isotonic drinks; beer and other malt beverages; and all other non-alcoholic carbonated and noncarbonated drinks in liquid form intended for human consumption except milk and beverages that are primarily derived from dairy products, infant formula, and FDA-approved medicines.

“Beverage container,” any sealable bottle, can, jar, or carton which is primarily composed of glass, metal, plastic, or any combination of those materials and is produced for the purpose of containing a beverage, which, at the time of sale, contains one-hundred and thirty-five ounces or less of a beverage. This definition shall not include containers made of paper-based biodegradable material and aseptic multi-material packaging.

SECTION 2. Section 321 of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding, after the definition of “Plastic bottle” the following definition:—

“Redemption center,” any business whose primary purpose is the redemption of beverage containers and is not ancillary to any other business,

SECTION 3. Section 321 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding, after the definition of “Reusable beverage container,” the following definition:—

“Small dealer,” any person, including any operator of a vending machine, employing the equivalent of ten full time employees or less, who engages in the sale of beverages in beverage containers to consumers in the Commonwealth.

SECTION 4. Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding in line 30 after the letter “(e),” the following:—

The Executive Office of Environmental Affairs shall promulgate rules and regulations for the licensure of redemption centers, and may set fees for the licensing of such redemption centers.

SECTION 5. Section 323, paragraph (a), of Chapter 94 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out in line the words “the refund value” and inserting in place thereof the words “the full refund value”.

SECTION 6. Section 323, paragraph (b), of Chapter 94 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the words “one cent” and inserting in place thereof the words “three and one quarter cents” and placing the following sentence at the end of the paragraph. “The handling fee shall be reviewed semi-annually by the Secretary of the Executive Office of Environmental Affairs and adjustments made to reflect increases in costs incurred by redemption facilities.”

SECTION 7. Section 323, paragraph (c), of Chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out in the words “one cent” and inserting in place thereof the words “three and one quarter cents” and placing the following sentence at the end of the paragraph. “The handling fee shall be reviewed semi-annually by the Secretary of the Executive Office of Environmental Affairs and adjustments made to reflect increases in costs incurred by redemption facilities.”

SECTION 8. Section 323 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding in line 73, after the word “civil,” the words “or administrative.”

SECTION 9. Chapter 94 of the General Laws, as so appearing, is hereby amended by adding a new section after 323F:— SECTION 323G. Redemption Centers.

(a) Only small dealers may apply for an exemption with the department.

(b) Application for an exemption shall be jointly filed with the department by the small dealer and redemption center. The application shall state the name and address of the person responsible for the establishment and operation of the center, the kinds, sizes and brand names of beverage containers that will be accepted and the names and addresses of dealer(s) to be served and their distance from the local redemption center.

(c) In approving the exemption, the department shall consider at least the health and safety of the public; the convenience for the public, including standards governing distribution of centers by population or by distance or both, the size and storage capacity of the dealer(s) to be served by the redemption center and the size and storage capacity of the redemption center. The order approving a local redemption center license must state the dealers to be served and the kinds, sizes and brand names of empty beverage containers that the center accepts.

(d) A local redemption center may not refuse to accept from any consumer or other person not a dealer any empty, unbroken and reasonably clean beverage container of the kind, size and brand sold by a dealer served by the center, or refuse to pay in cash the full refund value of the returned beverage container as established by Section 322 of Chapter 94 of the General Laws.

(e) A list of the dealers served and the kinds, sizes and brand names accepted shall be promptly displayed at each local redemption centers.

(f) The name and location of the redemption center serving the dealer shall be conspicuously displayed at the dealer.

SECTION 10. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following new paragraphs:— The Department of Environmental Protection shall have authority to enforce the provisions of sections three hundred and twenty-one; three hundred and twenty-two; paragraphs (a) through (f) inclusive, and paragraph (i) of section three hundred and twenty-three; three hundred and twenty-three A; three hundred and twenty-three F; three hundred and twenty-four; and three hundred and twenty-five. Any bottler, distributor, redemption center, or dealer who violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of not more than one thousand dollars.

The Department of Revenue shall have authority to enforce the provisions of paragraphs (g) and (h) of section three hundred and twenty-three and sections three hundred and twenty-three B to three hundred and twenty-three E, inclusive. Any bottler, distributor, redemption center, or dealer who violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of not more than one thousand dollars.

SECTION 11. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding after the word “civil” in line 14 the words “or administrative.”

SECTION 12. Section 323F. of Chapter 94 of the General Laws, is hereby amended by replacing the existing text with the following:

(a) There shall be established on the books of the Commonwealth a separate fund to be known as the Clean Environment Fund as established in Section 323D of Chapter 94 of the General Laws. Amounts deposited in said fund shall be used, subject to appropriation, solely for programs and projects in the management of solid waste and for environmental protection; provided, however, that no funds shall be used for costs associated with incineration.

(b) Not less than fifty percent of amounts deposited in the Fund shall be used for recycling, composting and solid waste source reduction projects and programs.

(c) Not less than an additional twenty percent of amounts deposited in the Fund shall be used for recycling and other solid waste projects and programs.

(d) Not more than thirty percent of amounts deposited in the fund shall be used for other environmental programs consistent with the purposes of the ""bottle bill", so-called.

(e) Of amounts expended under paragraphs (b) through (d), not more than fifty percent shall be used for debt service on capital outlays authorized prior to January first, nineteen hundred and eighty-eight.

SECTION 13. This act shall take effect on December first, two thousand eleven.